IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3659 OF 2006

Shri Pravin Ramesh Gaikwad)
Age : 25 Years, Occ.: Service)
R/at Dikmal, Tal.Indapur,)
Dist. Pune.)..Petitioner

Versus

1.The Director, Maharashtra State)
Council for Educational Research)
& Training, Pune-411 030)

2.Deputy Director, Pune Region)
Pune)

3.Educational Officer)
(Secondary Schools),)
Zilla Parishad, Pune-411 001)

4.Late B.V.Rajebhosale)
Madhyamik Vidyalaya, Bhimthadi)
Educational Institution)
Khanota Tal.Daund, Dist.Pune)..Respondents

Ms.Lalita Panchakshari for the petitioner.

Mr.P.K.Hushing for respondent no.4.

Mrs.M.P.Thakur AGP for respondent nos.1 to 3.

Coram : S.B.Mhase &
R.S.Mohite,JJ

Date : 12.04.2007

Oral Order :- (Per : S.B.Mhase,J)

1. Heard. Rule, returnable forthwith.

2. The petitioner is a candidate of a Schedule Tribe viz. "Hindu Thakar". He has passed 12th

standard and thereafter was selected by respondent no.4 and appointed as Shikshak Sevak in the secondary school of respondent no.4. The petitioner was appointed on 25.9.2004 and thus he has completed more than 2 years of service with the respondent no.4. However, he is untrained teacher. Even though he is an untrained teacher, since the petitioner was appointed as against the reserve post of a Schedule Tribe, the services of the petitioner were approved by the respondent no.3-Educational officer. There is a scheme by the Government of Maharashtra to impart to a postal D.Ed eduction to the untrained teachers and to the reserve category and for the said purpose application for postal D.Ed is to be given through the respondent no.1. Accordingly, the application of the petitioner for postal D.Ed course was submitted through the respondent no.4 to the respondent no.1. The said application was thus submitted through the proper channel. However, respondent no.1 has rejected the said application on the ground that the respondent no.4 has not made sufficient efforts to find out the trained candidate to be appointed as a Shikshak Sevak in a reserved vacancy and, therefore, the petitioner has approached this Court. Respondent no.1 has also rejected the said application on the ground that there is no recommendation for admission from the Controlling officer/ Education officer/Divisional Deputy Director of Education.

3. The respondent no.1 has filed an affidavit reiterating the stand taken while rejecting the application of the petitioner. Now the respondent no.4 has also filed an affidavit stating that all types of efforts were made to find out a candidate and since the candidate was not available, petitioner was selected. It is also made clear that the petitioner is the only candidate from the Schedule Tribe who appeared for the interview. It is to be noted that no trained Schedule Tribe candidate appeared for the interview is the stand taken by respondent no.4.

4. We find that the respondent no.4 has issued an advertisement in respect of the reserved post. In response to that advertisement, no trained Schedule Tribe candidate had applied. The respondent no.4 had also called the names from the Employment Exchange and the Social Welfare Officers of the Zilla Parishad and also from the Project officer. In their list, there were trained candidates of the Schedule Tribe category. However the interview calls were given to them and in response to the interview calls, none of the trained candidates appeared for the interview. It appears that respondent no.4 has made every effort to get trained candidate. All these aspects have been scrutinized by the Educational officer and therefore, he has

given approval to the service of the petitioner as a Shikshak Sevak. Once the Educational officer has scrutinized it, it was none of the business of the respondent no.1 to go into scrutiny again. What we find is that the proposal of the petitioner has been submitted through proper channel i.e. through the Education officer and if the Education officer has not made any recognition, the fault is not with the petitioner. The fact remains that the Education officer has not given any adverse remarks as against the petitioner so that the admission can be denied to him. We find that the letter issued by the respondent no.1 dated 25.8.2005 refusing admission to the petitioner for the academic year 2006-2007 is wrong and illegal. We set aside the said communication dated 25.8.2005. We direct the respondent no.1 that he shall give the admission to the petitioner to the course of postal D.Ed in the academic year 2007-2008 and Writ petition is accordingly allowed. Rule made absolute accordingly.

(R.S.Mohite,J) **(S.B.Mhase,J)**